--H.R.1303--

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One Hundred Eighth Congress

of the

United States of America

AT THE SECOND SESSION

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Begun and held at the City of Washington on Tuesday,

the twentieth day of January, two thousand and four

An Act

To amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RULEMAKING AUTHORITY OF JUDICIAL CONFERENCE.

Section 205(c) of the E-Government Act of 2002 (Public Law 107-347; 44 U.S.C. 3501 note) is amended by striking paragraph (3) and inserting the following:

`(3) PRIVACY AND SECURITY CONCERNS-

`(A)(i) The Supreme Court shall prescribe rules, in accordance with sections 2072 and 2075 of title 28, United States Code, to protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically or converted to electronic form.

`(ii) Such rules shall provide to the extent practicable for uniform treatment of privacy and security issues throughout the Federal courts.

`(iii) Such rules shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.

`(iv) Except as provided in clause (v), to the extent that such rules provide for the redaction of certain categories of information in order to protect privacy and security concerns, such rules shall provide that a party that wishes to file an otherwise proper document containing such protected information may file an unredacted document under seal, which shall be retained by the court as part of the record, and which, at the discretion of the court and subject to any applicable rules issued in accordance with chapter 131 of title 28, United States Code, shall be either in lieu of, or in addition to, a redacted copy in the public file.

`(v) Such rules may require the use of appropriate redacted identifiers in lieu of protected information described in clause (iv) in any pleading, motion, or other paper filed with the court (except with respect to a paper that is an exhibit or other evidentiary matter, or with

respect to a reference list described in this subclause), or in any written discovery response--

`(I) by authorizing the filing under seal, and permitting the amendment as of right under seal, of a reference list that--

`(aa) identifies each item of unredacted protected information that the attorney or, if there is no attorney, the party, certifies is relevant to the case; and

`(bb) specifies an appropriate redacted identifier that uniquely corresponds to each item of unredacted protected information listed; and

`(II) by providing that all references in the case to the redacted identifiers in such reference list shall be construed, without more, to refer to the corresponding unredacted item of protected information.

`(B)(i) Subject to clause (ii), the Judicial Conference of the United States may issue interim rules, and interpretive statements relating to the application of such rules, which conform to the requirements of this paragraph and which shall cease to have effect upon the effective date of the rules required under subparagraph (A).

`(ii) Pending issuance of the rules required under subparagraph (A), any rule or order of any court, or of the Judicial Conference, providing for the redaction of certain categories of information in order to protect privacy and security concerns arising from electronic filing or electronic conversion shall comply with, and be construed in conformity with, subparagraph (A)(iv).

`(C) Not later than 1 year after the rules prescribed under subparagraph (A) take effect, and every 2 years thereafter, the Judicial Conference shall submit to Congress a report on the adequacy of those rules to protect privacy and security.'.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

END